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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,576	12/09/2003	Tracy Glenn Obershan	CIL1266	3894
7590 10/20/2005		EXAMINER		
Anthony Edw. J Campbell		WEBB, TIFFANY LOUISE		
6721 Northridge Drive		ART UNIT		
Dallas, TX 75214-3156		PAPER NUMBER		

3616

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,576

Applicant(s)

OBERSHAN, TRACY GLENN

Examiner

Tiffany Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/9/2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 8, line 21 through page 15, line 18 there are parts of the described figures that do not have reference numbers included in the specification. The examiner suggests adding the existing reference characters to all respective description parts in this part of the specification.

Appropriate correction is required.

2. The examiner notes that the information set forth from page 8, line 21 through page 15, line 18 includes information that does not pertain to describing the details of the drawings. The examiner recommends these items be included within the sub-section describing the summary of the invention.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8, 13, 14, 19, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 8, 9, and 15 are unclear because they claim a motorcycle cage "comprising tubular metal" and it is unclear to what parts of the motorcycle cage are to be tubular.

Claims 14 and 20 are unclear because they claim a motorcycle cage "comprising steel" and it is unclear as to what of the motorcycle cage is steel.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6, 9-11, 15-16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Eyre et al. (US 1,473,956). Regarding claims 1-4, 9, and 15, Eyre et al. discloses a protective impact cage including a rear bumper (48), a rear bar (31) connected to a rear bumper, a passenger bar (22) connected to a rear bar, a waistline bar (23) connected to a passenger bar, a bottom brace (17) connected to a passenger bar, an operator bar (21) connected to braces, a left side bar (23) connected to an operator bar, a right side bar (33) connected to an operator bar, a front bumper (32) connected to side bars, right and left front shoulder bars (20 and 29) connected to an operator bar and a front bumper, left and right top braces (P', P, and 34) connected to a passenger bar and an operator bar, and left and right upright rear shoulder bars (22 and 31) connecting

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a passenger barn and a waistline bar. Regarding claims 5, 10, and 16, Eyre et al. discloses using an impact cage with a motorcycle (col. 2, line 71). Regarding claims 6, 11, and 17, Eyre et al. teaches using the structure of a cage for protecting a motorcycle operator and passenger from collision (col. 1, lines 14-19).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 12-14, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyre et al. (US 1,473,956) in view of Mauws (US 5,094,313). Eyre et al. is discussed above and fails to disclose welded connections, using tubular metal, or steel construction. Regarding claims 8, 13-14, and 19-20, Mauws teaches construction of a cage frame using tubular steel (col. 3, line 54). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use tubular metal or steel to construct the protection cage of Eyre et al. in view of Mauws in order to allow for strong protection, lightweight construction, and rigid connections. Regarding claims 7, 12, and 18 Eyre et al. and Mauws fail to disclose welded connections, but it is well known in the art that steel connections in frame construction are made through one of many welding processes. Accordingly, it would have been obvious to have the frame

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connections welded so as to provide secure connection, and as such fastening is old and well known.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are protection structures for vehicles:

Akiyama et al. (US 6,764,099), Mueller et al. (US 6,142,253), and Galea (AU 9530558).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Tiffany Webb
Examiner
Art Unit 3616

tlw

 10/17/05

PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
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